

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEROY LYONS,

Petitioner,

Case Number: 2:10-CV-11386

v.

HONORABLE VICTORIA A. ROBERTS

BLAINE LAFLER,

Respondent.

**ORDER CONSTRUING PETITIONER’S MOTION FOR CERTIFICATE
OF APPEALABILITY AS MOTION FOR RECONSIDERATION
AND DENYING MOTION FOR RECONSIDERATION**

Petitioner Leroy Lyons filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner, a state inmate, challenged his convictions for two counts of first-degree murder. On August 23, 2012, the Court issued an “Opinion and Order Denying Petition for Writ of Habeas Corpus and Denying Certificate of Appealability.” Petitioner has now filed a “Motion for Certificate of Appealability.” Because the Court already has denied a certificate of appealability (COA), the Court construes Petitioner’s motion as requesting reconsideration of that denial.

Motions for reconsideration may be granted when the moving party shows (1) a “palpable defect,” (2) by which the court and the parties were misled, and (3) the correction of which will result in a different disposition of the case. E.D. Mich. L.R. 7.1(h)(3). A “palpable defect” is a “defect which is obvious, clear, unmistakable,

manifest or plain.” *Olson v. The Home Depot*, 321 F. Supp. 2d 872, 874 (E.D. Mich. 2004).

Petitioner asks the Court to reconsider its denial of a certificate of appealability. The Court declined to issue a COA because reasonable jurists could not “debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner” or that the issues presented were “adequate to deserve encouragement to proceed further.”” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation omitted). Petitioner’s arguments for reconsideration amount to a disagreement with the Court’s decision. A motion predicated upon such argument fails to allege sufficient grounds upon which to grant reconsideration. L.R. 7.1(h)(3); *see also, Meekison v. Ohio Dept. of Rehabilitation and Correction*, 181 F.R.D. 571, 572 (S.D. Ohio 1998). Petitioner fails to demonstrate that the Court’s decision denying a COA was based upon a palpable defect by which the Court was misled.

Accordingly, the Court DENIES Petitioner’s “Motion for Certificate of Appealability” [dkt. # 42], which the Court has construed as a “Motion for Reconsideration.”

SO ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: March 5, 2013

The undersigned certifies that a copy of this document was served on the attorneys of record and Leroy Lyons by electronic means or U.S. Mail on March 5, 2013.

S/Carol A. Pinegar
Deputy Clerk